

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-02513-BNB

JAMES R. HOFF,

Plaintiff,

v.

PRIDE INDUSTRIES,

Defendant.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

NOV 05 2010

GREGORY C. LANGHAM
CLERK

ORDER TO TRANSFER

Plaintiff, James R. Hoff, currently resides in Colorado Springs, Colorado. Mr. Hoff, acting *pro se*, initiated this action by filing a Complaint and a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Mr. Hoff alleges in the Complaint that Defendant discriminated against him based on his handicap and refused to hire him in violation of Title VII of the Civil Rights Act of 1964.

Mr. Hoff further asserts that the alleged unlawful employment practice took place at the Oceana Naval Air Station in Virginia Beach, Virginia. He also attached to the Complaint a copy of the Equal Employment Opportunity Commission (EEOC) Dismissal and Notice of Rights form that indicates Plaintiff's EEOC claim was processed by the EEOC agency located in Charlotte, North Carolina. On October 19, 2010, Magistrate Judge Boyd N. Boland ordered Mr. Hoff to show cause why this action should not be dismissed or transferred based on either improper venue or lack of personal jurisdiction. Mr. Hoff filed a Response on October 25, 2010.

In the Response, Mr. Hoff asserts various reasons for not dismissing or transferring the action, including: (1) he has Polio; (2) he lives seventy-five miles from Denver; (3) he is waiting for his EEOC file; (4) his complaint originated at a naval air base; (5) Pride Industries has undermined his case; (6) Pride Industries has headquarters and nine other locations in California, as well as one location in El Paso, Texas; and (7) he was “welcomed aboard” by the night manager, the night manager knew about his disability, and he was a good fit for the job. None of the reasons stated by Mr. Hoff support the basis for finding that venue and personal jurisdiction are proper in this Court. The Court, therefore, pursuant to 28 U.S.C. § 1391(b)(2), finds that venue is proper in the United States District Court for the Eastern District of Virginia (Eastern District of Virginia) because the incidents involving Mr. Hoff’s claim took place in Virginia Beach, Virginia, and the Charlotte District Office for the EEOC has jurisdiction over the State of Virginia. **See** Equal Employment Opportunity Commission Website, <http://www.eeoc.gov/field/charlotte/area.cfm>.

Pursuant to 28 U.S.C. § 1406(a), “[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” The Court finds that in light of the ninety-day filing limitation for Title VII claims in a federal district court, it would be in the interest of justice to transfer this case to the Eastern District of Virginia rather than to dismiss it. Accordingly, it is

ORDERED that this action shall be transferred to the United States District Court for the Eastern District of North Virginia (Norfolk Division) (Walter E. Hoffman, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510) pursuant to 28 U.S.C. § 1406(a).

DATED at Denver, Colorado, this 4th day of November, 2010.

BY THE COURT:

A handwritten signature in black ink, reading "Christine M Arguello". The signature is written in a cursive style with a horizontal line underneath the name.

CHRISTINE M. ARGUELLO
United States District Judge, for
ZITA LEESON WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 10-cv-02513-BNB

James R. Hoff
2510 Beacon St.
Colorado Springs, CO 80907

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 11/6/10

GREGORY C. LANGHAM, CLERK

By 

Deputy Clerk